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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,507	07/03/2003	Eugene Feinberg	8009-17	4811
22150 7590 10/06/2009 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797				
EXAMINER RINES, ROBERT D				
ART UNIT 3623		PAPER NUMBER		
MAIL DATE 10/06/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/613,507

**Applicant(s)**

FEINBERG ET AL.

**Examiner**

R. David Rines

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 8, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 11-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

*Notice to Applicant*

[1] This communication is in response to the amendment filed 15 June 2009. Claims 1-4, 6, 8, and 11-12 are pending.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

[2] **Previous rejection(s) of claims 1-4, 6, 8, 11, and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** are hereby withdrawn due to Applicant's persuasive remarks.

**[3] Claims 1-4, 6, 8, 11, and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.** The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Specifically, the Specification as originally filed demonstrates possession one potential embodiment of the broad claim coverage. Because one embodiment does not suggest possession of the potential other forms of algorithms that fall under the scope of the claimed invention, one would not be conveyed of possession of an invention that covered such broad scope.

**[4] Claims 1-4, 6, 8, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 recites a number of calculating steps indicating that "theoretical probabilities" and "actual probabilities" of each of series of jobs are calculated and subsequently utilized in some manner to determine if a job schedule. While the Specification as originally filed includes considerable mathematical explanation of the terms theoretical probabilities and actual probabilities and the associated calculations, it is unclear to as to what either a theoretical probability or actual probability of jobs denotes and further, it is unclear how each of these elements serve to determine the feasibility of a job schedule.

Claim 1 recites "...creating a potential schedule for the n jobs..." and "...searching for the feasible schedule wherein the n jobs from the potential schedule...". It is not clear from the claims as presented how the potential schedule for the n jobs is created. Further, it is not clear how the potential schedule and the feasible schedule are interrelated such that the searching of the potential schedule would result in the step of "...outputting the feasible schedule...". Appropriate clarification/correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

[5] Claims 1-4, 6, 8, 11-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Feinberg et al., "Sensor Resource Management for an Airborne Early Warning Radar", Proceedings of SPIE Vol. 4728, Signal and Data Processing of Small Targets (April 2002) (hereinafter "Feinberg")

**As to claim 1, Feinberg** discloses a method of generating a feasible schedule for n jobs given a duration and a revisit time for each job, comprising:

determining whether it is impossible to generate a feasible schedule (see p. 151, step 2 of Frequency Based Algorithm);

determining whether a round robin schedule is possible (see p. 151, step 3 of Frequency Based Algorithm);

calculating theoretical probabilities (see p. 151, step 4 of Frequency Based Algorithm);

calculating actual probabilities (see p. 151, step 8 of Frequency Based Algorithm);

creating a potential schedule based on the theoretical probabilities and the actual probabilities (see p. 151, step 8 of Frequency Based Algorithm); and

searching for a feasible schedule from the potential schedule (see p. 151, step 15 of Frequency Based Algorithm).

**As to claim 2, Feinberg** discloses the formula presented (see p. 151, step 2 of Frequency Based Algorithm).

**As to claim 3, Feinberg** discloses the formula presented (see p. 151, step 3 of Frequency Based Algorithm).

**As to claim 4, Feinberg** discloses the formula presented (see p. 151, step 4 of Frequency Based Algorithm).

**Claim 5 has been cancelled.**

**As to claim 6, Feinberg** discloses the formula presented (see p. 151, step 5 of Frequency Based Algorithm).

**Claim 7 has been cancelled.**

**As to claim 8,** Feinberg discloses the formula presented (see p. 151, step 8 of Frequency Based Algorithm).

**Claims 9 and 10 have been canceled.**

**As to claim 11,** Feinberg discloses a computer-readable medium wherein the method further includes outputting the round robin schedule for the n jobs upon determining that the round robin schedule is possible (see, page 151 step 3).

**As to claim 12,** Feinberg discloses a computer-readable medium wherein searching for the feasible schedule of the n jobs from the potential schedule of the n jobs further includes determining a job number for each job (see p. 151, step 8)

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/  
Examiner, Art Unit 3623